

**Senate File 204 - Introduced**

SENATE FILE 204

BY DAWSON

**A BILL FOR**

1 An Act relating to criminal law including defense subpoenas,  
2 depositions, conditional guilty pleas, prosecution witnesses  
3 who are minors, and juror qualifications, providing  
4 penalties, and including effective date provisions.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

DEFENSE SUBPOENAS

Section 1. Section 815.9, subsection 1, unnumbered paragraph 1, Code 2023, is amended to read as follows:

For purposes of [this chapter](#), [chapters 13B, 229A, 232, 665, 812, 814, and 822](#), and ~~section~~ [sections 811.1A and 821A.1](#), and the rules of criminal procedure, a person is indigent if the person is entitled to an attorney appointed by the court as follows:

Sec. 2. NEW SECTION. **821A.1 Defense subpoenas in criminal actions.**

1. *a.* A criminal defendant or counsel acting on the defendant's behalf shall not issue any subpoena for documents or other evidence except upon application to the court. An application shall not be granted unless a defendant proves by clear and convincing evidence all of the following:

(1) There is a compelling need for the evidence sought and that such evidence is material, necessary, exculpatory, and admissible at trial.

(2) The evidence sought does not include the private information of a crime victim or any other person except for the defendant's own private information.

*b.* For the purposes of this subsection:

(1) "*Exculpatory*" means information that tends to negate the guilt of the defendant, and not information that is merely impeaching or is substantially cumulative in nature.

(2) "*Private information*" means information for which a person has a reasonable expectation of privacy including but not limited to information the state would need a search warrant to obtain, nonpublic electronic communications, and information that would reveal personal information immaterial to the prosecution.

2. Notwithstanding any rule of criminal procedure concerning the issuance of a subpoena, this section is the exclusive mechanism for a criminal defendant or counsel acting

1 on the defendant's behalf to issue a subpoena for documents or  
2 other evidence.

3 3. An application for a defense subpoena shall not be filed  
4 or reviewed ex parte.

5 4. The prosecuting attorney shall not be required to execute  
6 or effectuate any order or subpoena issued pursuant to this  
7 section.

8 5. A crime victim or other party who is the subject of  
9 a subpoena shall not be required by the court to execute a  
10 waiver.

11 6. Upon application by a crime victim or the prosecuting  
12 attorney, the court shall appoint an attorney to represent a  
13 person or entity served with a defense subpoena if the person  
14 or entity is determined to be indigent pursuant to section  
15 815.9. Counsel appointed pursuant to this subsection shall be  
16 paid from the indigent defense fund established pursuant to  
17 section 815.11.

18 7. Documents or other evidence obtained through a defense  
19 subpoena must be provided to the prosecuting attorney within  
20 twenty-four hours of obtaining the documents or evidence.

21 8. Documents or other evidence obtained through a defense  
22 subpoena that does not comply with this section shall not be  
23 admissible in any criminal action if offered by the defendant.

24 9. An attorney who knowingly issues a defense subpoena that  
25 does not comply with this section and the rules of criminal  
26 procedure commits a simple misdemeanor.

27 10. An applicant for postconviction relief shall not be  
28 entitled to relief on a claim of ineffective assistance of  
29 counsel as a result of evidence obtained through a defense  
30 subpoena.

31 DIVISION II

32 DEPOSITIONS

33 Sec. 3. NEW SECTION. 701.13 Depositions before indictment.

34 A person expecting to be made a party to a criminal  
35 prosecution shall not be entitled to conduct a deposition prior

1 to the person being indicted for a criminal offense.

2 DIVISION III

3 CONDITIONAL GUILTY PLEAS

4 Sec. 4. Section 814.6, Code 2023, is amended by adding the  
5 following new subsection:

6 NEW SUBSECTION. 3. A conditional guilty plea that purports  
7 to reserve an issue for appeal shall only be entered by the  
8 court with the consent of the prosecuting attorney and the  
9 attorney general. An appellate court shall have jurisdiction  
10 over only conditional guilty pleas that comply with this  
11 section and when appellate adjudication of the reserved issue  
12 is in the interest of justice.

13 DIVISION IV

14 PROSECUTION WITNESSES — MINORS

15 Sec. 5. Section 915.36A, Code 2023, is amended to read as  
16 follows:

17 **915.36A Minor prosecuting witness — pretrial contact.**

18 1. A prosecuting witness who is a minor shall have the  
19 right to have the interview or deposition taken outside of the  
20 presence of the defendant. The interview or deposition may  
21 be televised by closed-circuit equipment to a room where the  
22 defendant can view the interview or deposition or in a manner  
23 that ensures that the defendant shall not have contact with  
24 the minor. The defendant shall be allowed to communicate with  
25 the defendant's counsel in the room where the minor is being  
26 interviewed or deposed by an appropriate electronic method.

27 2. The supreme court shall amend the rules of criminal  
28 procedure to comply with this section including but not  
29 limited to the elimination of a requirement that a defendant be  
30 physically present at the deposition of a minor.

31 DIVISION V

32 JUROR QUALIFICATIONS

33 Sec. 6. Section 48A.30, subsection 1, paragraph f, Code  
34 2023, is amended to read as follows:

35 *f.* The registered voter is not a resident of Iowa, or the

1 registered voter submits documentation under section 607A.4,  
2 subsection ~~3~~ 5, that indicates that the voter is not a citizen  
3 of the United States.

4 Sec. 7. Section 607A.4, Code 2023, is amended to read as  
5 follows:

6 **607A.4 Jury service — minimum qualifications —**  
7 **disqualification — documentation.**

8 1. To serve or to be considered for jury service, a person  
9 must possess the following minimum qualifications:

10 a. Be eighteen years of age or older.

11 b. Be a citizen of the United States.

12 c. Be able to understand the English language in a written,  
13 spoken, or manually signed mode.

14 d. Be able to receive and evaluate information such that the  
15 person is capable of rendering satisfactory ~~juror~~ jury service.

16 2. ~~However, a~~ A person possessing the minimum  
17 qualifications for service or consideration for service may be  
18 disqualified for service or consideration for service if the  
19 person has, directly or indirectly, requested to be placed on  
20 a list for ~~juror~~ jury service.

21 3. A person convicted of a felony who remains under the  
22 supervision of the department of corrections, a judicial  
23 district department of correctional services, or the board of  
24 parole shall be disqualified from jury service.

25 4. A person convicted of a felony that requires the person  
26 to register as a sex offender under chapter 692A or to serve a  
27 special sentence under chapter 903B shall be disqualified from  
28 jury service.

29 ~~3-~~ 5. A person who claims disqualification for any of  
30 the grounds identified in this section may, upon the person's  
31 own volition, or shall, upon the court's volition, submit  
32 in writing to the court's satisfaction, documentation that  
33 verifies disqualification from ~~juror~~ jury service.

34 DIVISION VI

35 SUPREME COURT — RULES OF CRIMINAL PROCEDURE REVISIONS

1     Sec. 8. SUPREME COURT — RULES OF CRIMINAL PROCEDURE  
 2 REVISIONS. The supreme court shall revise the rules of  
 3 criminal procedure submitted for legislative council review  
 4 on October 14, 2022, to comply with this Act. The revised  
 5 rules of criminal procedure shall be submitted for legislative  
 6 council review no later than June 1, 2023, and shall supercede  
 7 the revised rules submitted on October 14, 2022. If the  
 8 supreme court fails to timely submit rules of criminal  
 9 procedure revised to comply with this Act, the rules of  
 10 criminal procedure submitted for legislative council review on  
 11 October 14, 2022, shall be rejected in their entirety.

12     Sec. 9. EFFECTIVE DATE. This division of this Act, being  
 13 deemed of immediate importance, takes effect upon enactment.

14                                   EXPLANATION

15                   The inclusion of this explanation does not constitute agreement with  
 16                   the explanation's substance by the members of the general assembly.

17     This bill relates to criminal law including defense  
 18 subpoenas, depositions, conditional guilty pleas, prosecution  
 19 witnesses who are minors, and juror qualifications.

20     DIVISION I — DEFENSE SUBPOENAS. The bill provides that a  
 21 criminal defendant or counsel acting on the defendant's behalf  
 22 shall not issue any subpoena for documents or other evidence  
 23 except upon application to the court. An application shall not  
 24 be granted unless a defendant proves by clear and convincing  
 25 evidence there is a compelling need for the evidence sought and  
 26 that such evidence is material, necessary, exculpatory, and  
 27 admissible at trial; and the evidence sought does not include  
 28 the private information of a crime victim or any other person  
 29 except for the defendant's own private information.

30     Notwithstanding any rule of criminal procedure concerning  
 31 the issuance of a subpoena, the bill provides that this  
 32 bill provision is the exclusive mechanism for a criminal  
 33 defendant or counsel acting on behalf of the defendant to  
 34 issue a subpoena for documents or other evidence. Documents  
 35 or other evidence obtained by a subpoena that does not comply

1 with the requirements of this bill provision shall not be  
2 admissible in any criminal action if offered by the defendant,  
3 and an attorney who knowingly issues a defense subpoena that  
4 does not comply with the requirements of the bill commits a  
5 simple misdemeanor. An application for a defense subpoena  
6 shall not be made or reviewed ex parte. Any documents or  
7 evidence obtained by a defense subpoena must be provided to the  
8 prosecuting attorney within 24 hours of obtaining the documents  
9 or evidence.

10 The bill provides that upon application by a crime victim or  
11 the prosecuting attorney, the court shall appoint an attorney  
12 to represent a person or entity served with a defense subpoena,  
13 if the person or entity is indigent.

14 The bill provides that an applicant for postconviction  
15 relief shall not be entitled to relief on a claim of  
16 ineffective assistance of counsel as a result of evidence  
17 obtained through a defense subpoena.

18 DIVISION II — DEPOSITIONS. The bill provides that a person  
19 who has the expectation of being made a party to a criminal  
20 prosecution shall not be entitled to conduct a deposition prior  
21 to the person being indicted for a criminal offense.

22 DIVISION III — CONDITIONAL GUILTY PLEAS. The bill provides  
23 that a conditional guilty plea that purports to reserve an  
24 issue for appeal may only be entered with the consent of the  
25 prosecuting attorney and the attorney general. An appellate  
26 court shall have jurisdiction only over conditional guilty  
27 pleas that comply with this provision in the bill and when  
28 appellate adjudication of the reserved issue is in the interest  
29 of justice.

30 DIVISION IV — PROSECUTION WITNESSES — MINORS. The  
31 bill provides that the supreme court shall amend the rules  
32 of criminal procedure to comply with Code section 915.36A  
33 concerning the rights of a minor being interviewed or deposed,  
34 including but not limited to the elimination of a requirement  
35 that a defendant be physically present at the deposition of a

1 minor.

2       DIVISION V — JUROR QUALIFICATIONS. The bill provides that a  
3 person is disqualified from jury service if the person has been  
4 convicted of a felony and remains under the supervision of the  
5 department of corrections, a judicial district department of  
6 correctional services, or the board of parole, or if the person  
7 has been convicted of a felony which requires registration as  
8 a sex offender under Code chapter 692A or to serve a special  
9 sentence under Code chapter 903B. The bill makes conforming  
10 Code changes.

11       DIVISION VI — SUPREME COURT — RULES OF CRIMINAL PROCEDURE  
12 REVISIONS. The bill requires the supreme court to revise the  
13 rules of criminal procedure submitted for legislative council  
14 review on October 14, 2022, to comply with the bill. The  
15 revised rules shall be submitted for legislative council review  
16 no later than June 1, 2023, and shall supercede the revised  
17 rules submitted on October 14, 2022. If the supreme court  
18 fails to timely submit rules of criminal procedure revised to  
19 comply with the bill for legislative council review on October  
20 14, 2022, the submitted rules shall be rejected in their  
21 entirety.

22       The division is effective upon enactment.